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| APPLICATION NO.                                                                 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/091,660                                                                      | 03/05/2002  | Bruce Hoff           | BDI002              | 7234             |
| 28848                                                                           | 7590        | 06/04/2004           | EXAMINER            |                  |
| TOPE-MCKAY & ASSOCIATES<br>23852 PACIFIC COAST HIGHWAY #311<br>MALIBU, CA 90265 |             |                      | ALLEN, MARIANNE P   |                  |
|                                                                                 |             |                      | ART UNIT            | PAPER NUMBER     |

1631

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

### **DETAILED ACTION**

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

In response to this requirement, please provide copies of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter of configuring a dendrogram as set forth in the claims, particularly with respect to local quality techniques and within-group variance techniques.

In response to this requirement, please provide the title, citation and copy of each publication that any of the applicants relied upon to develop the disclosed subject matter that describes the applicant's invention, particularly as to configuring a dendrogram as set forth in the claims, particularly with respect to local quality techniques and within-group variance techniques. For each publication, please provide a concise explanation of the reliance placed on that publication in the development of the disclosed subject matter.

In response to this requirement, please provide the title, citation and copy of each publication that any of the applicants relied upon to draft the claimed subject matter. For each publication, please provide a concise explanation of the reliance placed on that publication in distinguishing the claimed subject matter from the prior art.

In response to this requirement, please state whether any search of prior art was performed. If a search was performed, please state the citation for each prior art collection searched. If any art retrieved from the search was considered material to demonstrating the

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knowledge of a person having ordinary skill in the art to the disclosed method, please provide the citation for each piece of art considered and a copy of the art.

In response to this requirement, please provide information concerning the availability date and clustering functionality present in each version of GeneSight software (BioDiscovery, Inc.), including any Users Manuals. The information is required to identify products and services embodying the disclosed subject matter of configuring a dendrogram as set forth in the claims, particularly with respect to local quality techniques and within-group variance techniques. If the presently claimed invention is an improvement over the prior art, please state the specific improvements of the subject matter in the claims and indicate the specific elements in the claimed subject matter that provide those improvements. For those claims expressed as means or steps plus function, please provide the specific page and line numbers within the disclosure which describe the claimed structure and acts.

The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain

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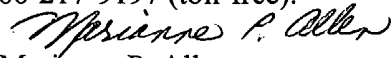
an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.

This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne P. Allen whose telephone number is 571-272-0712. The examiner can normally be reached on Monday-Thursday, 5:30 am - 1:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-0722. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Marianne P. Allen  
Primary Examiner  
Art Unit 1631  
6/2/04

mpa

  
MICHAEL P. WOODWARD  
SUPERVISORY PATENT EXAMINER  
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6/2/04